



DAE IZW

00862.022315

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Mitsuru HIURA) : Examiner: A. E. Dudding
Application No.: 09/915,325) : Group Art Unit: 2853
Filed: July 27, 2001) : Confirmation No.: 5938
For: EXPOSURE APPARATUS AND DEVICE)
MANUFACTURING METHOD USING THE :
SAME)
U.S. Patent No: 6,891,175)
Issued: May 10, 2005) June 23, 2005

Office of Patent and Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)**

Sir:

Patentee hereby requests the Commissioner under 37 C.F.R. §1.705(d) for reconsideration and recalculation of the Patent Term Adjustment (PTA) for the above-identified Patent. The Commissioner is hereby authorized to charge all fees associated with this request to Deposit Account No. 06-1205.

For at least the following reasons, this Patent is believed to be entitled to a PTA of 421 days.

FACTS

- (1) The subject Patent issued from Application No. 09/915,325, filed July 27, 2001.
- (2) The subject Patent is not subject to any terminal disclaimers.
- (3) The Patent Application Information Retrieval (PAIR) system of the U.S. Patent and Trademark Office (PTO) indicates Applicant-Delay periods of 122 days. The PAIR system also indicates a PTO-Delay period of 423 days. The PTA assessed for the subject Patent is 301 days. The Applicant-Delay period of 120 days is disputed, for the reasons provided below.
- (4) On March 12, 2004, a Notice of Allowance and Fee(s) Due (Notice) was issued. Attached to the Notice was a Determination of Patent Term Adjustment Under 37 U.S.C. §154(b) providing a patent term adjustment of 215 days.
- (5) On March 31, 2004, Applicant filed a paper entitled Request for Corrected Notice of Allowability.
- (6) The PAIR indicates a "Miscellaneous Incoming Letter" on March 31, 2004, and assessed an Applicant delay period of 120 days.
- (7) On June 10, 2004, Applicant filed a paper entitled Submission of Previously-Filed Paper, with the Request for Corrected Notice of Allowability as an attachment.
- (8) On June 14, 2004, Applicant timely paid the Issue Fee (via hand-carry).
- (9) The subject patent issued on May 10, 2005, with a patent term extension of 301 days.

ARGUMENTS

(10) The PTO incorrectly treated the Request for Corrected Notice of Allowability as an "other" paper under 37 CFR §1.704(c)(10) and wrongly assessed an Applicant delay period of 120 days.

(11) 37 C.F.R. §1.704(a) provides that "[t]he period of adjustment of the term of a patent under §1.703(a) through (e) shall be reduced by a period equal to the period of time during which the Applicant failed to engage in reasonable efforts to conclude prosecution (processing or examination) of the application."

(12) It is submitted that the miscellaneous incoming letter recorded in the PAIR system on March 31, 2004, should not be considered a failure to engage in reasonable efforts to conclude prosecution, for the following reasons.

(13) The Request for Corrected Notice of Allowability filed on March 31, 2004, was a necessary and direct response to an error in Box 2 of the Notice of Allowability, which incorrectly identified the allowed claims as Claims 2-19 and 18-20. This indication failed to include allowed Claims 21 and 22. The sole reason for filing the Request, therefore, was to correct an error in the Notice of Allowance.

(14) This necessary response should therefore not be considered a failure to engage in reasonable efforts to conclude prosecution, and should not result in a 120 day Applicant-Delay period.

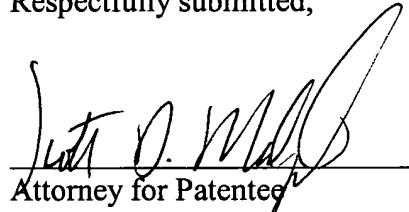
RELIEF REQUESTED

Wherefore, reconsideration of the Patent Term Adjustment is respectfully requested, in which the Applicant-Delay period of 122 days for responding to that request is changed to 2 ($122 - 120 = 2$), leaving a PTA of 421 days.

CONCLUSION

Patentee's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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